HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26623 OF 2006

Between:

Vijayawada Municipal Corporation Ministerial
Employees Association, Vijayawada,
represented by its President
and others. . . .Petitioners

AND

Government of Andhra Pradesh,
represented by its Principal Secretary,
Finance (Expr. Revenue) Department,
Hyderabad and three others. . . .Respondents

:: O R D E R ::

Counsel for the petitioners : Sri K. V. Subba Reddy

Counsel for respondent No.1 : Government Pleader for
Finance and Planning.

29th March, 2007

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Per G.S.SINGHVI, C.J.

This is a petition by nine associations and unions representing the employees of different cadres employed in the services of Vijayawada Municipal Corporation and three others for issue of a mandamus to the respondents to recover the arrears of profession tax from their members in accordance with G.O.Ms.No.110, Finance (Expr. Revenue) Department, dated 3-5-2006 and Government Memo No.23021/348/A2/Expr.Rev./ 2006, dated 7-9-2006.

The above mentioned prayer of the petitioners is founded on the following assertions:

i) the Government of Andhra Pradesh revised the pay scales of government employees as well as the employees of local bodies with effect from 1-4-2005;

ii) that in terms of the policy contained in G.O.Ms.No.110, dated 3-5-2006 read with Memo dated 7-9-2006, only 35% of the profession tax dues payable by the government employees is deducted from the arrears payable to them and the balance amount is credited to their Provident Fund accounts, but similar benefit/concession has not been extended to the employees of the local bodies and the entire dues of profession tax are being deducted from the arrears payable to them as a consequence of revision of their pay with effect from 1-4-2005.

The petitioners have pleaded that the government's failure to extend the benefit of the policy contained in G.O.Ms.No.110, dated 3-5-2006 to the employees of the local bodies is discriminatory

and violative of Articles 14 and 16 of the Constitution of India. The case of the petitioners is that all the employees, whose pay was revised in 2005 constitute one class and they cannot be discriminated in the matter of deduction of profession tax.

In the counter affidavit filed by Sri I.Y.R. Krishna Rao, Principal Secretary to Government, Finance Department, reference has been made to G.O.Ms.No.48, Finance & Planning Department, dated 15-3-1997 and clarification issued vide CCT's Circular Reference No.A.III(2)781/2003, dated 30-10-2003, and it has been averred that the concession/exemption given to the non-gazetted officers cannot be extended to the employees of the municipal bodies, urban development authorities and other agencies/instrumentalities of the State because they constitute different class/category. According to Sri Krishna Rao, similar claim made by the employees of the local bodies and other agencies of the State in the context of G.O.Ms.No.48, dated 15-3-1997 was negatived by this Court in **ECIL Officers Association and others v. Govt. of A.P. and others**[1] and Writ Petition Nos.1516 of 2004 – **A.P. United Teachers Federation v. The Government of Andhra Pradesh** and Writ Petition No.17091 of 2004 – **The Vijayawada Municipal Corporation Employees' and Workers Union and another v. The Government of Andhra Pradesh** decided on 25-10-2004 and 26-10-2004.

We have heard learned counsel for the petitioners. Since the petitioners have not controverted the assertions contained in the counter affidavit filed on behalf of the respondents that similar claim made by the employees of the agencies and instrumentalities of the State has been negatived by this Court in the cases referred to hereinabove, we do not find any valid ground or justification to entertain the petitioners' prayer for issue of a mandamus to the

respondents to extend them the benefit of G.O.Ms.No.110, dated 3-5-2006 and Memo dated 7-10-2006.

For the reason aforestated, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP.No.34204 of 2006 filed by the petitioners for interim relief is also dismissed and WPMP.No.1388 of 2007 seeking amendment of the prayer clause of the writ petition is disposed of as infructuous.

G.S.SINGHVI, C.J.

29th March, 2007.

C.V.NAGARJUNA REDDY, J

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[1] 1998 (3) ALT 749 = (1998) 27 APSTJ 1